

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MICHAEL JONES

Plaintiff,

-v.-

Civil Action No.  
9:10-cv-1331 (GLS/ATB)

BRIAN FISCHER, DAVID ROCK,  
*et al.*

Defendants.

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APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

MICHAEL JONES  
90-A-5292  
Plaintiff, *pro se*  
Sing Sing Correctional Facility  
354 Hunter Street  
Ossining, New York 10562

**FOR THE DEFENDANTS:**

HON. ERIC T. SCHNEIDERMAN  
Attorney General for the  
State of New York  
The Capitol  
Albany, New York 12224

KRISTA A. ROCK, ESQ.

GARY L. SHARPE,  
CHIEF JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-  
Recommendation by Magistrate Judge Andrew T. Baxter, duly filed May 1,

2012. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Andrew T. Baxter filed May 1, 2012 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED that defendants' motion to dismiss (Dkt. No. 37) is GRANTED, and the complaint dismissed in its entirety without prejudice as to DEFENDANTS FISCHER, KNAPP-DAVID, ROCK, and RABIDEAU; and it is further

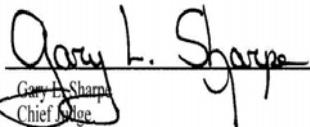
ORDERED that defendants' motion to dismiss (Dkt. No. 37) is DENIED as to DEFENDANT LEON, only with respect to the medical diet claim; and it is further

ORDERED that defendants' motion to dismiss (Dkt. No. 37) is DENIED as to defendants EGGLESTON, MASKUNAS, PRACK, WHALEN, and CHASE, only with respect to plaintiff's Due Process and First Amendment claims, relating to plaintiff's allegations of retaliatory false misbehavior reports and due process violations at the disciplinary hearings; and it is further

ORDERED, that the Clerk of the Court is to serve a copy of this order upon the parties in accordance with the court's local rules.

IT IS SO ORDERED

Dated: May 23, 2012  
Albany, New York

  
Gary L. Sharp  
Chief Judge  
U.S. District Court